

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 PHILLIP MORENO,

4 Plaintiff,

Case No. 3:20-CV-0013-RCJ-CLB

5 v.

6 WILLIAM GITTERE, et al.,

7 Defendants.

ORDER

8

9 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. §

10 1983 by Phillip Moreno, a state prisoner. Plaintiff has submitted an application to

11 proceed *in forma pauperis*. ECF No. 5. Based on the financial information provided,

12 the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

13 The Court entered a screening order on April 29, 2021. ECF No. 9. The

14 screening order imposed a 90-day stay and the Court entered a subsequent order in

15 which the parties were assigned to mediation by a court-appointed mediator. ECF Nos.

16 9, 11. The Office of the Attorney General has filed a status report indicating that

17 settlement has not been reached and informing the Court of its intent to proceed with

18 this action. ECF No. 13.

19 For the foregoing reasons, **THE COURT ORDERS** that:

20 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 5) is

21 **GRANTED**. Plaintiff is permitted to maintain this action to conclusion without the

22 necessity of prepayment of the filing fee, or any additional fees or costs or the giving of

23 security therefor. Plaintiff is not required to prepay a partial installment of the filing fee.

24 2. This order granting leave to proceed *in forma pauperis* shall not extend to

25 the issuance and/or service of subpoenas at government expense.

26 3. While Plaintiff is not required to pre-pay the filing fee, the full filing fee

27 must still be paid by Plaintiff pursuant to 28 U.S.C. § 1915(b)(2). Accordingly, Plaintiff is

1 required to make monthly payments of 20% of the preceding month's income credited to
2 his account. The Nevada Department of Corrections shall determine and forward this
3 monthly payment from the account of Plaintiff **PHILLIP MORENO, #62857** to the Clerk
4 of the United States District Court, District of Nevada, in each month that the account
5 balance exceeds \$10.00 until the full \$350.00 filing fee has been paid for this action.
6 The Clerk of the Court shall **SEND** a copy of this order to the Finance Division of the
7 Clerk's Office. The Clerk of the Court shall also **SEND** a copy of this order to the
8 attention of the Chief of Inmate Services for the Nevada Department of Corrections,
9 P.O. Box 7011, Carson City, NV 89702.

10 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
11 a copy of Plaintiff's First Amended Complaint (ECF No. 8) on the Office of the Attorney
12 General of the State of Nevada by adding the Attorney General of the State of Nevada
13 to the docket sheet. This does not indicate acceptance of service.

14 5. Service must be perfected within 90 days from the date of this order
15 pursuant to Fed. R. Civ. P. 4(m).

16 6. Subject to the findings of the screening order (ECF No. 9), within 21 days
17 of the date of entry of this order, the Attorney General's Office shall file a notice advising
18 the Court and Plaintiff whether it will or will not accept service on behalf of the named
19 defendant. If the Attorney General's Office cannot accept service on behalf of the
20 named defendant, the Office shall file, under seal, but shall not serve the inmate Plaintiff
21 the last known address of the named defendant for whom it has such information. If the
22 last known address of the named defendant is a post office box, the Attorney General's
23 Office shall attempt to obtain and provide the last known physical address.

24 7. If service cannot be accepted on behalf of the named defendant, Plaintiff
25 shall file a motion identifying the unserved defendant, requesting issuance of a
26 summons, and specifying a full name and address for the named defendant. If the
27 Attorney General has not provided last-known-address information for the named
28 defendant, Plaintiff shall provide the full name and address for the named defendant.

8. If the Attorney General accepts service of process for the named defendant, such defendant shall file and serve an answer or other response to the First Amended Complaint (ECF No. 8) within 60 days from the date of this order.

9. Plaintiff shall serve upon the named defendant or, if an appearance has been entered by counsel, upon the counsel for the named defendant, a copy of every pleading, motion or other document submitted for consideration by the Court. If Plaintiff electronically files a document with the Court's electronic-filing system, no certificate of service is required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff mails the document to the Court, Plaintiff shall include with the original document submitted for filing a certificate stating the date that a true and correct copy of the document was mailed to the defendant or counsel for the defendant. If counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney named in the notice of appearance, at the physical or electronic address stated therein. The Court may disregard any document received by a district judge or magistrate judge which has not been filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk which fails to include a certificate showing proper service when required.

10. This case is no longer stayed.

DATED THIS 29th day of July 2021.

21. 

UNITED STATES MAGISTRATE JUDGE